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EPA Region 5 Records Ctr.



630-434-5493
VIA FACSIMILE
Enza I. Petrarca
Village Attorney
Village of Downers Grove
801 Burlington Ave.
Downers Grove, IL 60515

Re: DuPage Groundwater Site/Connections Due to Contamination

Dear Ms. Petrarca:

This follows up on my letters regarding the Water Service Agreement and particularly paragraph 11. I feel it is necessary to explain further why we are so adamantly against any language that purports to protect the polluters from any liability.

The EPA made it clear in entering into the Administrative Order (AOC) with the PRPs that its intent was not to eliminate any private rights of the victims of the pollution. This is consistent with the intent of Congress in enacting CERCLA. As you will see from EPA's website (<http://epa.gov/region5/sites/ellsworth/comments01.htm#8>), EPA specifically stated that the settlement does not cut off any rights of the residents, including service fees, monthly bills and out-of-pocket expenses:

"There is nothing in the settlement that cuts off the rights of the residents to sue to recover damages and other relief from the PRPs. The terms of the settlement are clear that the PRPs will provide the funding necessary to complete the physical hookups to the public water supply system, thereby eliminating current exposures to contaminated drinking water. The terms are equally clear that the settlement does not cover the service fees and monthly bills due to Downers Grove as a condition of water service, does not cover out-of-pocket expenses already incurred by the residents related to the groundwater contamination, and does not release the PRPs from any liability related to those expenses." (emphasis added).

It would be fundamentally against the intent of Congress and the clearly articulated intent of the EPA for Downers Grove, in effectuating the AOC via the Water Service Agreement to interfere with any resident's rights.

Sincerely,

James D. Brusslan

Downers Grove Citizens' Advisory Group Notice**URGENT RESIDENTIAL INFORMATION – PLEASE READ**

DuPage County is distributing flyers to schedule meetings with homeowners to discuss Lake Michigan water connection. Each homeowner needs to determine what is best for his/her particular needs, but there are a few items we felt you should know prior to signing any documents.

IF YOU DON'T UNDERSTAND SOMETHING, ASK FOR AN EXPLANATION.

The County's Agreement has been revised to reflect the residents' concerns. However, there are a few items you may want to include in the "Scope of Work" section: 1) Directional boring will be utilized; 2) The contractor has a one year warranty on his work; 3) Vactor excavation will be utilized; 4) Restoration of disturbed landscaping; and 5) Removal of hydropneumatic tank/disconnect pressure switch/install meter span. If you wish to keep your pump or tank, you should specify this.

The Village's Agreement has not yet been revised. The language in No. 11 could waive your legal rights to recover more than five thousand dollars: *"The Owner(s)...., waives and releases the Village, the County of DuPage, and each of the participating companies providing funding for the water connection, from all claims pertaining to any such connection and/or groundwater contamination or condition, if any, except for.... personal (bodily) injury or property damage."* Our attorneys are advising against signing this Agreement until the revisions are made. It now appears the polluters are lobbying to limit our chances of filing suit for costs incurred after a specific date. Any costs incurred after that date would not be recoverable (thousands of dollars in future water bills). If you sign the agreement now, you may be held to the provisions of this agreement. If you don't like the revised agreement, you will not be able to contest it. We just received notice the revised agreement is now on the tentative Village Workshop agenda for **September 23**. A copy of the agreement (we do not yet have one) will be posted on the Internet before the Village Council Meeting the following week. If you find yourself in a position where you need to connect immediately, our attorneys are advising that you cross out No. 11 of the Village Agreement prior to signing the document.

We are advising that you take picture of the inside and outside of your home where the work will be performed. That way there should not be a question regarding restoration.

Finally, for those residents who cannot afford the \$2,000 recapture fee, or will have problems paying the water bills, you should contact the DuPage County Human Services at 630-682-7000 and inquire about assistance.

Thank you for your attention to this matter. If you would like additional information, please contact Larry Napierkowski at 969-2619, Rick Britton at 968-1057, or Ann Muniz at 663-1275.